IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE THIRTEENTH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION NO : 21139 of 1994

Between:

Majji Suryakanthamma, W/o.Sambashiva Rao
Near II Town Police Station, Vizianagaram-2.

..... PETITIONER

AND

1 The Revenue Divisional Officer, Vizianagaram.
2 The A.P.State Housing Corporation, Vizianagaram,
rep.by its District Manager, Vizianagaram.
3 The Divisional Engineer (Operation), APSE Board,
Vizianagaram.
4 The Vizianagaram Municipality,

rep.by its Commissioner/Special Officer,
Vizianagaram.

...RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ , order or direction more particularly one in the nature of Writ of Mandamus directing the respondents 1,2,5 not to take possession of the house bearing No.957(Plot.No.957) situated in a part of Survey.No.230 of Vizianagaram village, Poolbagh Colony,Vizianagaram-2 and not to allot the house and the house site covered thereby to any other person; to direct the respondents 3 and 4 not to change the name of the electricity service connection and the assessment in the records of the A.P.State Electricity Board under service connection No.17166, and the assessment No.35957 with regard to the property tax for the house in the Municipal records, declaring that the cancellation of the patta by the Revenue Divisional Officer in R.C.No.10903/90 dt.4-2-91 with regard to the site of the above said house purchased by this writ petitioner is arbitrary, improper illegal, contrary to

law, opposed to the principles of justice.

Counsel for the Petitioner:MR.D.RAMALINGA SWAMY, Advocate

Counsel for the Respondent No.1: G.P. for Revenue.

Counsel for the Respondents 2 & 3 : Mr. D.Srinivas

Counsel for Respondent No.4: MR.E.SAMBASIVA PRATAP

The Court made the following :

ORDER :

The petitioner was allotted House No.957 situated in part of Survey No.230 in Vizianagaram-II Bit in the Poolbagh Housing Corporation Colony. She was required to pay the sale price to the second respondent in 240 instalments. She alleges that she has been regularly paying the instalments as well as Municipal Tax to the fourth respondent. According to the petitioner, she came to know that one Mr. Mavoori Satyanarayana, son of Pothuraju, is making clandestine attempts to get the allotment cancelled. She also alleges that some Revenue officials came to the house and threatened to forcibly evict her saying that her assignment was cancelled. Apprehending that Andhra Pradesh State Housing Corporation may also cancel the allotment, the petitioner approached this Court assailing the action of the respondents in seeking to cancel the allotment of the house as well as the proceedings of the first respondent dated 4-2-1991 cancelling the assignment on the ground that she sublet the house.

A reading of the impugned order dated 4-2-1991 would show that the first respondent came to a conclusion that the petitioner and thirteen others have sublet their houses, solely based on the report allegedly submitted by the Mandal Revenue Officer to that effect. The first respondent did not issue any further notice calling upon the petitioner to submit her explanation. This is an incurable defect in the impugned order and, therefore, this Court finds sufficient force in the submission of the learned counsel that the impugned order without notice is unsustainable. The learned counsel also relied on an unreported order of this Court in W.P.Nos.6048 and 6050 of 1992, dated 17-8-1993 wherein, in similar circumstances, this Court nullified the order of cancellation and remitted the matter to the Revenue authorities for fresh enquiry.

Though the writ petition was admitted and notice was ordered on 2-12-1994, neither the Revenue officials nor the Andhra Pradesh State Housing Corporation have filed counter affidavits denying the petitioner averments.

Therefore, the writ petition is allowed. The impugned order dated 4-2-1991 is set aside and respondents 1 and 2 are directed to conduct independent enquiry and pass appropriate orders after issuing notice to the petitioner. No costs.

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(V.V.S. RAO, J.)

13-07-2004.

Msr.

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The Revenue Divisional Officer, Vizianagaram.
2 The District Manager, A.P.State Housing Corporation,

Vizianagaram District, Vizianagaram.
3 The Divisional Engineer (Operation), APSE Board,
Vizianagaram.
4 The Commissioner/Special Officer,
Vizianagaram Municipality,Vizianagaram.

5. 2CCs to G.P. for Revenue, High Court of A.P., Hyderabad.

6. 2CD copies

That Rule Nisi has been made absolute as above.

Witness the Hon’ble Sri Devinder Gupta, the Chief Justice on this Tuesday, the Thirteenth Day of July, Two thousand and four.

HON'BLE SRI JUSTICE V.V.S. RAO

WRIT PETITION No.21139 of 1994

Dt.13-07-2004.

(Msr)